IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 16157 of 2007

For Approval and Signature:

HON'BLE SMT.JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JODA ISMAIL JIVABHAI & 1 - Petitioner(s)
Versus
THE STATE OF GUJARAT & 5 - Respondent(s)

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Appearance :
MR AG VYAS for Petitioner(s) : 1 - 2.
MS MINI NAIR, AGP for Respondent(s) : 1, 4 & 6.

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CORAM : HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 12/12/2007

ORAL JUDGMENT

1. Rule. Ms.Mini Nair, learned Assistant Government Pleader, waives service of Rule on behalf of the respondents No.1 to 4 and 6. Having regard to the facts of the case and with the consent of the

learned counsel for the parties, the matter is being heard finally today.

2. This petition, under Article 226 of the Constitution of India, has been filed by the petitioners with the following prayers:

> *(A) To issue the writ of or in the nature of mandamus or any other appropriate writ, order or direction declaring the impugned inaction of the respondents to issue notification as per letter dated 24.4.2006 (Annexure-A) as unjust, arbitrary, illegal and null and void; and*
> *(B) To direct the respondents to issue notification as per letter dated 24.4.2006 (Annexure-A) restraining the storage and stacking of or treating in any manner loose salt by the salt industrialist in Maliya (M), Dist: Rajkot;*
> *(C) Pending admission, hearing and final disposal of this petition to issue interim injunction directing the respondents to remove loose salt lying in Maliya as per the direction or the order dated 29.1.2007 (Annexure-B) passed by the respondent No.4.*
> *(D) To award costs;*
> *(E) To grant any other relief.*

3. The brief facts of the case, as stated in the petition, are that the petitioners are farmers residing in Maliya (Miyana), District: Rajkot, and own agricultural lands within the boundaries of Maliya. It is the case of the petitioners that the respondents are not taking appropriate action in restricting the use of waste land and open land of Maliya, for the storage of salt by various salt industries which are operating in the area. The petitioners have annexed the representation dated 26.4.2006, addressed to the Collector of the District, spelling out their grievances in this regard, in detail. A copy of the same is annexed as Annexure-A to the petition. According to the petitioners, there are various salt manufacturing industries located in the region. It is averred that after manufacturing and processing the salt, it is stored in heaps upon the open land by the manufacturers. It is further averred, that due to the storage of salt on the open land, the agricultural lands of the petitioners are

deteriorating, and are being rendered uncultivable and barren, due to the underground seepage of water mixed with salt, rendering them unfit for agriculture. It is emphasized in the petition that the underground drinking water is also being polluted causing great hardship to the petitioners, including damage to health and property. It is averred that the petitioners have addressed various letters and representations to the authorities in this regard, for the redressal of their grievances, but since no concrete action has been taken, they have approached this Court by filing the present petition.

4. The affidavit-in-reply dated 16.7.2006, has been filed by Mr.A.J.Patel, Deputy Collector, Morbi, (respondent No.4), stating that appropriate action is being taken to prevent seepage of salt and erosion of the lands. It is stated in the affidavit that some criminal cases have been registered by the concerned Mamlatdar against some private parties regarding unloading, transportation and stacking of loose salt to prevent the deterioration of the

lands, and various steps are being taken to ensure the removal of salt from the open land. Some of these steps have been enumerated in the affidavit. It is stated that orders have been issued to direct the removal of salt within thirty days from the Government waste lands and Gauchar lands, if found to be stored thereupon. Further, the salt manufacturers have been directed to construct appropriate platforms and sheds with compound walls encircling the unit, and also proper drainage outlets, as a safety measure. The sum and substance of the affidavit filed by the Deputy Collector is that the respondent-authorities are alive to the seriousness of the situation being faced by the petitioners and are taking appropriate steps and necessary action in order to redress their grievances and stop the contamination of their agricultural land, due to the storage of salt.

5. Another affidavit dated 30.11.2007 has been filed by the Deputy Collector, containing details of the proceedings being undertaken against the offending parties. It is stated therein, that

directions have been issued to persons stacking the salt on their lands to remove the same within thirty days. In short, what is emphasized in the said affidavit is, that the respondents have made sincere efforts to redress the grievances of the petitioners.

6. I have heard Mr.A.G.Vyas, learned counsel for the petitioners and Ms.Mini Nair, learned Assistant Government Pleader for the respondents, at length and in great detail and have gone through the averments made in the petition as well as the affidavits-in-reply filed by the respondent No.4 and the documents annexed thereto.

7. From the affidavits-in-reply filed by the Deputy Collector, it is evident that the authorities have taken positive steps to ensure that stacking of salt on open lands is stopped so that the agricultural lands of the petitioners do not get contaminated. The details of the steps taken by the respondents have been stated in the reply affidavits discussed hereinabove. In view of the contents of the said

affidavits-in-reply filed by the respondent No.4, in my opinion, nothing further remains for adjudication.

8. The writ petition is, therefore, disposed of. However, it is hoped that the respondents will ensure that the sincere efforts made by them, to remove the stacking of loose salt from the agricultural lands in and around the lands of the petitioners, do not go waste and the same problem does not recur. In case of difficulty, the petitioners will be at liberty to approach the competent authorities in this regard, who may take suitable action. The writ petition is disposed of in the above terms. Rule is made absolute to the above extent. There shall be no orders as to costs.

(Smt.Abhilasha Kumari, J.)

(sunil)